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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,513	06/21/2003	Jin Teik Teh	03164-UPS	8640
33804 7590 05/11/2007 LIN & ASSOCIATES INTELLECTUAL PROPERTY P.O. BOX 2339 SARATOGA, CA 95070-0339			EXAMINER HYUN, SOON D	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 05/11/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/600,513		TEH ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Soon D. Hyun		2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-93 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 21-30, 91 and 93 is/are rejected.
- 7) ☒ Claim(s) 11-20 and 31-90 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification/Drawings***

1. In specification page 4, paragraphs 0014–0016, the numerical numbers for the step are not matched to the numerical numbers on the FIG. 2.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: each of claims 6 and 7 includes the claimed subject matter “a Hayes supported phone modem” or “a Hayes supported cellular modem” which are not described in the specification.

### ***Claim Objections***

2. Claims 61-90 are objected to because of the following informalities:

In each of claims 61-80, the acronym for GPRS, WCDMA, CDMA 1xRTT should be spell-out.

In claims 81-90, claim 1 to claim 10 on which each claim depends should be changed to claim 71 to 80, respectively, to avoid lack of antecedent basis.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 8, 21, 23, 28, and 91 are rejected under 35 U.S.C. 102(e) as being anticipated by Mock et al (US 2003/0174774).

Regarding claims 1 and 91, Mock et al (Mock) discloses a data communication network having a plurality of computer systems and using a plurality of communication protocols, a method for selecting the best routes for data communication comprising the following steps:

sending a data to and receiving (by a decoder 110 in FIG. 1) the data from a platform server (paragraph 0043), i.e., data is communicated between a first device (101-104) as a transmitter and a second device (107-110)102 as a receiver, but the first device is a receiver when the second device is a transmitter. Therefore, the first device and the second device are equivalent to a platform server and a platform client, respectively or vice versa as recited in claim.

sending the data to and receiving the data from a platform client (paragraph 0043);

determining a best protocol (UMTS protocol or IP protocol) based on data characteristics (a priority class, paragraphs 0043 and 0058); and  
routing the data by the selected protocol to reach one or more destinations (a receiver performing decoding functions).

Regarding claims 3 and 8, Mock further discloses that the data is sent to the platform server and is received from the platform server by Internet Protocol (via IP network 105).

Regarding claim 21, 23, and 28, Mock further discloses that user polls for data sending if a client have no cellular communication link (paragraph 0058).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 6, 7, 22, 26, 27, and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mock et al (US 2003/0174774).

Regarding claims 2, 6 and 7, Mock et al (Mock) does not explicitly teach a dial up modem for the first device and the second device to connect IP network (105). It the **Official Notice** that using a dial up modem, a Hayes supported modem or a Hayes supported cellular modem for the communication devices are well known in the art when the communication devices are connected to the Internet.

Regarding claims 22, 26, and 27, Mock further discloses that user polls for data sending if a client have no cellular communication link (paragraph 0058).

Regarding claim 93, Mock does not explicitly teach a computer program for the method stored in a hard disk. It would have been obvious to one having ordinary skill in

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the art to incorporate a computer program into Mock to take advantage of using the computer program (programmable).

6. Claims 4, 5, 9, 10, 24, 25, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mock et al (US 2003/0174774) in view of Aaltonen (US 2002/0110116).

Regarding claims 4 and 9, Mock et al (Mock) discloses that the data is communicated via an UMTS network, but Mock does not explicitly teach that a Short messaging Service (SMS) protocol (with SMS gateway) is used for the communication. Aaltonen discloses SMS protocol is used for the UMTS network (paragraph 0024) to transmit short message. Therefore, it would have been obvious to one having ordinary skill in the art to incorporate SMS protocol (with a SMS gateway) into the UMTS network of Mock to transmit short message (data).

Regarding claim 5 and 10, Mock et al (Mock) discloses that the data is communicated via an UMTS network, but Mock does not explicitly teach that a Multimedia messaging Service (MMS) protocol (with MMS gateway) is used for the communication. Aaltonen discloses MMS protocol is used for the UMTS network (paragraph 0024) to transmit multimedia data. Therefore, it would have been obvious to one having ordinary skill in the art to incorporate MMS protocol (with SMS gateway) into the UMTS network of Mock to transmit multimedia.

Regarding claim 24, 25, 29, and 30, Mock further discloses that user polls for data sending if a client have no cellular communication link (paragraph 0058).

***Allowable Subject Matter***

7. Claims 11-20 and 31-90 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and the claim objection is corrected.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach a step of determining a protocol is based on size of data and maximum cellular communication link speed in specific combination as recited claims 11-20.

The prior art of record also fails to teach a step of determining SMS protocol is based on the size and priority of data in specific combination as recited in claims 31-50.

The prior art of record also fails to teach a step of determining a protocol (dial-up modem) based on the size of the data and the maximum cellular communications link in specific combination as recited in claims 51-80.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Soon D. Hyun whose telephone number is 571-272-3121. The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S. Hyun  
5/7/2007

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER

5/9/07